

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA**

DELMER B. GARRETT,)	
)	
Plaintiff,)	
)	
vs.)	Case No. 05-CV-399-GKF-PJC
)	
ENDEAVOR ENERGY RESOURCES, L.P., a)	
foreign corporation, and)	
AUTRY STEPHENS,)	
)	
Defendants.		

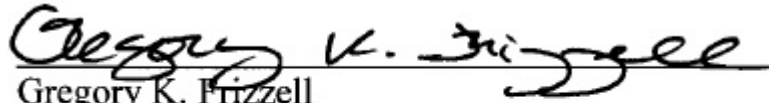
OPINION AND ORDER

Before the Court is Defendant Endeavor Energy Resources, L.P.’s (“Endeavor”) Motion to Dismiss [Dkt. # 86]. Endeavor has attached to this motion an affidavit which disputes factual contentions made in the Amended Complaint [Dkt. # 56]. When a district court relies on material from outside the pleadings, the court must convert the motion to dismiss into a motion for summary judgment. *Lamb v. Rizzo*, 391 F.3d 1133, 1136 (10th Cir. 2004). When such a conversion occurs, the district court “must provide the parties with notice so that all factual allegations may be met with countervailing evidence.” *Burnham v. Humphrey Hospitality Reit Trust, Inc.*, 403 F.3d 709, 713 (10th Cir. 2005).

Since Endeavor’s Motion to Dismiss contains material from outside the pleadings upon which the Court may rely, this Court hereby converts Endeavor’s motion to dismiss into a motion for summary judgment.

IT IS ORDERED that plaintiff Delmer B. Garrett has an additional twenty (20) days, or until August 14, 2007, in which to respond to the converted motion for summary judgment and to provide countervailing evidence in opposition to the motion.

Dated this 25th day of July 2007.

A handwritten signature in black ink, reading "Gregory K. Frizzell". The signature is written in a cursive style with a horizontal line drawn through the middle of the text.

Gregory K. Frizzell
United States District Judge
Northern District of Oklahoma